



August 24, 2016

Ms. Andrea Cherepy
Office of Pollution Prevention and Toxics
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW.
Washington, D.C. 20460

Submitted Electronically to Docket No. EPA-HQ-OPPT-2016-0401

Re: Fees for the Administration of the Toxic Substances Control Act

Dear Ms. Cherepy:

The American Coatings Association (“ACA”)¹ submits these comments to the U.S. Environmental Protection Agency (“EPA,” or “Agency”) in response to the Agency’s solicitation for public input regarding fees for the administration of the Toxic Substances Control Act (“TSCA”). The Frank R. Lautenberg Chemical Safety for the 21st Century Act (“Lautenberg Act”) amends TSCA so that EPA is authorized to, by rule, establish fees to defray the cost of administering sections 4, 5, and 6, and collecting, processing, reviewing, and providing access to and protecting from disclosure as appropriate under section 14 information on chemical substances. Under Section 26(b)(4)(E), EPA is required to consult and meet with parties potentially subjected to TSCA user fees prior to the establishment of any fees. ACA appreciates EPA’s outreach efforts and consideration of public input so that the Agency is better informed as it drafts the proposed fee structure.

Given that EPA has not released a proposal at this time, ACA encourages the Agency to continue engaging in dialogue over the next several months with potentially affected stakeholders and carefully evaluate the feedback received throughout the rulemaking process. As EPA outlines potential options for establishing fees and more details are released, EPA should continue to be transparent and consult with stakeholders. While it is critical for EPA to establish fee regulations in a timely manner in order to implement its new obligations prescribed under the Lautenberg Act, it is also critical that EPA implement an effective, efficient, simple, fair, and predictable funding program that will not significantly burden affected industries. EPA should clearly communicate the costs it anticipates to businesses and avoid establishing an overly-complicated, highly variable process so that affected industries can adequately prepare for upcoming fees as EPA commences certain TSCA activities. EPA must also ensure it complies with its statutory

¹ ACA is a voluntary, nonprofit trade association representing approximately 250 manufacturers of paints, coatings, adhesives, sealants, and caulks, raw materials suppliers to the industry, and product distributors. The manufacture, sale, and distribution of paints and coatings are a \$20-billion-dollar industry in the United States. ACA’s membership represents over 90% of the total domestic production of paints and coatings in the United States. ACA serves as an advocate and ally for members on legislative, regulatory and judicial issues, and provides forums for the advancement and promotion of the industry through educational and professional development services.

limitations under the Lautenberg Act, including lower fees for small businesses (in consultation with the Small Business Administration) and establishing fees that are no more than reasonably necessary to defray the cost related to such chemical substance.

ACA supports the general principles outlined by the American Chemistry Council (“ACC”) in its comment letter submitted to the docket. Specifically, ACA supports the principle that EPA must be clear about its current and anticipated costs for administering TSCA so that stakeholders are aware and can better predict what fees might be assessed, and more effectively provide recommendations to EPA. Also, ACA supports the principle that the TSCA fee program should be fair, equitable, simple and efficient. EPA must assure fees are not set at a level so high that would adversely impact innovation, particularly with new PMN fees under Section 5 of TSCA. ACA also agrees that PMN exemption notices should not have an associated fee because those substances are already recognized by EPA to be low risk, nor should CBI claim submissions or Section 4 data and information submissions because companies would already be incurring testing costs. ACA also agrees that only those manufacturers and/or processors with an interest in the substance, under the conditions of use under review, should be subject to fees under Section 6.² EPA should recognize the differences between manufacturers and processors and ensure fundamental fairness to them. For example, EPA may consider a tiered approach for fees if processors are assessed fees under Section 6.

Thank you for the opportunity to comment. If you have any questions, please contact ACA at 202-462-6272.

Respectfully Submitted,



Javaneh Nekoomaram
Counsel, Government Affairs

² When defining the universe of affected industries, EPA could look to data already collected under existing CDR submissions as well as notifications in response to EPA’s one-time “inventory reset” regulation, which EPA is expected to promulgate within 1 year of enactment of the Lautenberg Act.